2

(I)

OA/57/353/96

BEFORE THE STATE ADMINISTRATIVE TRIBUNAL ,JABALPUR

O.A.No. 1534 /1996 OA/1534/96

Applicant: U.D.Patni,
Retired Asstt.Commissioner(Organiser),
Tribal Welfare Department,
R/o Arya Colony,Tifra,Distt-Bilaspur

VERSUS

Non-applicants: 1)State of Madhya Pradesh,
Through-Secretary,Tribal Welfare
Department,Bhopal.

2) Director,Tribal Welfare Development,
Bhopal.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT

59

HIGH -COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

W. P. (s) No. 1353 of 2005

U.D. Patni

Versus

State of Madhya Pradesh & another

SB : Hon'ble Justice Shri Satish K. Agnihotri J.

Present:

Shri K.R. Nair, counsel for the petitioner.
Shri Ajay Dwivedi, Panel lawyer for respondents/State.

O R A L O R D E R

(28th July, 2006)

1. The petitioner was appointed on the post of Teacher by order dated 8.11.1954 (Annexure A/1) by the District Organizer, Tribal Welfare Department. Thereafter he was promoted to the post of Headmaster by order dated 10.2.1960 (Annexure A/2) and was further promoted to the post of Circle Organizer by order dated 25.5.1963 (Annexure A/3) and thereafter, to the post of Assistant Commissioner by order dated 26.4.1994 (Annexure A/4).
2. The petitioner after having completed 58 years of the service was retired on 31.12.1995.
3. According to learned counsel for the petitioner, the petitioner is entitled to continue in service upto the 60 years of age as per

Section 56 of the Madhya Pradesh Shaskiya Sevak (Adhivarshiki-Ayu) Adhiniyam, 1967 (for short 'The Act, 1967'), which provides that the Government teacher shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years. Explanation to sub rule 56 further provides that the "Teacher" means a Government servant, by whatever designation called, appointed for the purpose of teaching in an educational institution run by the Government including technical or medical education institution in accordance with the recruitment rules applicable to such appointment and shall also include the teacher who is appointed to an administrative post by promotion or otherwise and who has been engaged in teaching for not less than twenty years provided he holds a lien on a post in the concerned School/Collegiate/Technical/Medical education service.

4. Learned counsel further submits that the petitioner has retained his lien in the department till his retirement from the date he was appointed as teacher. On the question of completion of 20 years engagement in teaching job, learned counsel refereed a decision dated 22.11.1994 passed by the Madhya Pradesh Administrative Tribunal, Bhopal Bench in O.A. No. 62/93 (V.A. Bhambal Vs. The State of M.P. & others) whereby the condition of 'Teaching 20 years' was struck down as ultra-vires by the Tribunal. Learned counsel further submitted that this order passed by the Tribunal has attained finality as the same was not challenged further in any superior Court. Learned counsel accordingly prays for monetary relief.

(41)

5. Learned counsel appearing for the respondents/State does not dispute the provisions of Section 56 of the Act 1967, which is quoted hereinbelow:-

> "56. Age of superannuation.- (1) Subject to the provisions of sub-rule (3), every Government servant other than a class IV Government servant shall retire from service on the afternoon of the last day of the month on which he attains the age of fifty-eight years:
>
> Provided that a Government servant whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the proceeding month on attaining the age of fifty-eight years:
>
> Provided further that scientific, technical and other personnel having special or expert knowledge in any field may, with the sanction of the competent authority, be given extension of service beyond the age of fifty-eight years subject to their physical fitness and suitability for work, but such extension shall not ordinarily be beyond the age of sixty years.
>
> {(1-a) Subject to the provisions of sub-rule (3), every Government teacher shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years:
>
> Provided that a Government teacher whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years.}
>
> { Explanation.- For the purpose of this sub-rule "Teacher" means a government servant, by whatever designation called, appointed for the purpose of teaching in an educational institution run by the Government including technical or medical education institution in accordance with the recruitment rules applicable to such appointment and shall also include the teacher who is appointed to an administrative

post by promotion or otherwise and who has been engaged in teaching for not less than twenty years provided he holds a lien on a post in the concerned School/Collegiate/Technical/Medical education service."

6. Learned counsel further does not dispute the fact of the order dated 22.11.1994 passed by the Madhya Pradesh Administrative Tribunal, Bhopal Bench in O.A. No. 62/93 (V.A. Bhambal Vs. The State of M.P. & others).

7. In view of the aforementioned facts of the case, as stated above, the respondents/authorities are directed to treat the petitioner, as he has retired at the age of 60 years, and accordingly he is entitled to all the consequential benefits of two years, including revision of pension, gratuity etc. For granting the said relief, the process be completed within a period of three months from the date of receipt/production of a copy of this order.

8. The writ petition is accordingly allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu/-